



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,848	02/24/2004	Peter Gernold	13906-184001 / 2003P00962	9474
32864	7590	06/11/2008	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			ZELASKIEWICZ, CHRYSTINA E	
			ART UNIT	PAPER NUMBER
			3621	
			MAIL DATE	DELIVERY MODE
			06/11/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/784,848	<b>Applicant(s)</b> GERNOLD, PETER	
	<b>Examiner</b> CHRYSTINA ZELASKIEWICZ	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10-15, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-15, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>April 28, 2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

**Status of Claims**

1. This action is in reply to the amendment filed on April 28, 2008.
2. Claims 1-6, 10, 19 have been amended.
3. Claims 7-9, 16-18 have been canceled.
4. Claims 1-6, 10-15, 19-20 are currently pending and have been examined.

**Information Disclosure Statement**

5. The Information Disclosure Statements filed on April 28, 2008 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

**Drawings**

6. In light of Applicant's amendment to the drawings, the former objection is withdrawn.

**Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph**

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
8. Claims 1-9 and 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
9. Claim 1 recites the limitation "the application data" in line 8. There is insufficient antecedent basis for this limitation in the claim.
10. Claims 1 and 19 are vague and indefinite because they state the functional language "configured to." For purposes of examination, Examiner will assume Applicant meant "programmed to."
11. In light of Applicant's amendments to claims 1-9, the former rejection directed to "propagated signal" is withdrawn.

12. In light of Applicant's amendments to claims 1, 10, and 19, the former rejection directed to "for use" is withdrawn.

**Claim Rejections - 35 USC § 101**

13. In light of Applicant's amendment to claim 1 and the cancellation of claims 9 and 18, the former rejection is withdrawn.

**Claim Rejections - 35 USC § 103**

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-6, 10-15, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bracho et al. (US 5,870,605) in view of Cheng et. al. (US 5,884,324).

**Claims 1, 10, and 19**

16. Bracho discloses the following limitations:

- a. receive a user input identifying a type of data to be distributed to data sites (see at least column 8, lines 44-51: The subscriber then registers a "subscription" for the event type that it wishes to receive through the hub. (The subscriber can look at the hub to see what types of events are advertised.) A subscription specifies a **type of event**, and can further specify a "filter" indicating that the subscriber wishes to receive only events of a certain type that also have certain values in certain fields);
- b. receive a user input identifying a distribution criterion that defines the basis upon which the type of data is to be distributed to the data sites (see at least column 8, lines 44-51: The subscriber then registers a "subscription" for the event type that it wishes to receive through

the hub. (The subscriber can look at the hub to see what types of events are advertised.) A subscription specifies a type of event, and can further specify a "**filter**" indicating that the subscriber wishes to receive only events of a certain type that also have certain values in certain fields);

c. store the type of data to be distributed and the distribution criterion for use in generating data subscriptions in a network of distributed computer systems operating an application program having application data of various data types (see at least column 10, lines 26-30: All input and output to and from hub 106 is queued. For example, events received by hub 106 from remote hub 108 and from publisher 102 are **stored** in event priority order in respective event queues 502, 504 until hub 106 has time to process them);

d. generate data subscriptions based on the type of data to be distributed to data sites and the distribution criterion (see at least column 5, lines 34-47: A publisher uses an "advertisement" to tell the system what types of events it intends to publish and how it intends to publish them (e.g., daily, as each event trigger occurs, etc). Advertisements are registered with the hub connected to the publisher during the installation of the publisher. An advertisement must have a unique name. In addition to containing a name of an event type to be published, an advertisement contains other information about the publisher. This information can include the priority level for the published events, for how long the events are valid, etc. Hubs transmit advertisements to all potential subscribers. Hubs transmit published events to all subscribers who have subscribed to events of that type, whose content matches the subscriber's subscription).

17. Bracho does not disclose the following limitations:

e. The distribution criterion comprising... application data.

18. Cheng discloses the following limitations:

f. the distribution criterion comprising a query executable against portions of the application data (see at least column 4, lines 58-61: Once communications are established, the query result will be sent to and stored at the remote client 100, and the daemon 132 will notify the person making the database request of the query result).

Art Unit: 3621

19. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Bracho with Cheng because 1) the ability to store, retrieve, and manage massive amounts of information has become a virtual necessity in business today (see at least Cheng, column 1, lines 14-16) and 2) only the appropriate subscribers should receive published events on the network (see at least Bracho, column 2, lines 16-20). Having the distribution criterion comprise a query executable against portions of the application data helps manage massive amounts of information, and ensure only the appropriate subscribers receive published events.

20. Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bracho, in view of Cheng, to show a query executable against portions of the application data. Bracho already teaches hubs transmitting advertisements to all potential subscribers who have subscribed to events of a particular type, whose content matches the subscriber's subscription (column 5, lines 44-47). A suggestion exists that the hubs may comprise a query executable against portions of the application data (subscriber's subscription) in order to match advertisements to potential subscribers.

#### **Claims 2 and 11**

21. Bracho, in view of Cheng, discloses the limitations of claims 1 and 10. Furthermore, Bracho discloses the following limitation:

- g. the type of data to be distributed to data sites comprises a business object type (see at least column 6, lines 19-20: an application publishes "SalesOrder" events).

#### **Claims 3 and 12**

22. Bracho, in view of Cheng, discloses the limitations of claims 1 and 10. Furthermore, Bracho discloses the following limitation:

- h. the type of data to be distributed to data sites comprises a publication (see at least column 5, lines 9-11: a "publisher" publishes events of certain types on the network 120 and a "subscriber" subscribes to events of certain types).

**Claims 4 and 13**

23. Bracho, in view of Cheng, discloses the limitations of claims 1 and 10. Furthermore, Bracho discloses the following limitation:

- i. the distribution criterion comprises an attribute of the type of data to be distributed (see at least column 11, lines 44-52: Event **attribute** names are used to denote which field in the event should be compared. Sub-fields (those inside structures) are specified using dot notation. Names can also be enumerated types, as is known to persons familiar with the C programming language. Once a content filter has been specified, it is used during event routing as described below in connection with FIGS. 8-12. Information describing each content filter for a subscription is stored in field 774 of FIG. 7).

**Claims 5, 14, and 20**

24. Bracho, in view of Cheng, discloses the limitations of claims 1, 10, and 19. Furthermore, Cheng discloses the following limitation:

- j. the distribution criterion comprises a distribution criterion based on a relationship of data with an employee that uses a data site (see at least column 4, lines 7-17: Block 216 represents the data replication agent 102 determining whether the remote user is authorized to access the DBMS 108. If the remote user 100 is not authorized to access the DBMS 108, the data replication agent 102 denies remote user 100 a token, as illustrated in block 218. Data replication agent 102 processing thereafter returns to an idle state 222. If the remote user is authorized to access the DBMS 108, the data replication agent 102 transmits a token from the data replication agent 102 to the remote client 100, as shown in block 220).

25. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Bracho with Cheng because 1) the ability to store, retrieve, and manage massive amounts of information has become a virtual necessity in business today (see at least Cheng, column 1, lines 14-16) and 2) only the appropriate subscribers should receive published events on the network (see at least

Bracho, column 2, lines 16-20). Having the distribution criterion based on a relationship of data with an employee ensures only appropriate subscribers (i.e. employees) receive the published events.

**Claims 6 and 15**

26. Bracho, in view of Cheng, discloses the limitations of claims 1 and 10. Furthermore, Cheng discloses the following limitation:

k. the distribution criterion comprises a distribution criterion based on a responsibility of an employee that uses a data site (see at least column 4, lines 7-17: Block 216 represents the data replication agent 102 determining whether the remote user is authorized to access the DBMS 108. If the remote user 100 is not authorized to access the DBMS 108, the data replication agent 102 denies remote user 100 a token, as illustrated in block 218. Data replication agent 102 processing thereafter returns to an idle state 222. If the remote user is authorized to access the DBMS 108, the data replication agent 102 transmits a token from the data replication agent 102 to the remote client 100, as shown in block 220).

27. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Bracho with Cheng because 1) the ability to store, retrieve, and manage massive amounts of information has become a virtual necessity in business today (see at least Cheng, column 1, lines 14-16) and 2) only the appropriate subscribers should receive published events on the network (see at least Bracho, column 2, lines 16-20). Having a distribution criterion based on a responsibility of an employee ensures that only appropriate subscribers receive published events.



28. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

### **Double Patenting**

29. The provisional double patenting rejection is maintained from the previous office action. Please see below.

30. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

31. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

32. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

33. Claims 1, 10, and 19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7, and 15 of copending Application No. 10784196. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of the instant application would have been obvious to one of ordinary skill in the art in light of the disclosure of application 10784196. Claims 1, 7, and 15 of application 10784196 are directed to accessing the type of data to be distributed and the distribution criterion, and generating data subscriptions based upon the type of data and the distribution criteria (see Application No. 10784196 claims 1, 7, and 15). Claims 1, 10, and 19 of the instant application are directed to receiving information from a user for use in generating data subscriptions with steps for the following: receiving data and a distribution criterion; storing distribution criteria and the type of data to be distributed; and for generating data subscriptions based on the type of data to be distributed. The instant application would have been obvious to one of ordinary skill in the art in light of claims 1, 7, and 15 of application 10784196 because if the data and distribution criterion can be accessed, then the person of ordinary skill would have received and stored this information in order to generate the data distribution.

34. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### **Response to Arguments**

35. Applicant's argument on the previous 35 USC 102 rejection is moot in light of Applicant's amendments to independent claims 1, 10, and 19 (now rejected under 35 USC 103).

36. Examiner notes that Applicant makes reference to "Oldale's failure" (p 8 of Remarks). For purposes of examination, Examiner will assume Applicant meant "Bracho's failure."

37. Applicant argues that Cheng does not disclose "a query executable against portions of the application data" (p 8 Remarks). Examiner respectfully disagrees. Cheng teaches a query result sent and stored at the remote client, and notifying the person making the database request of the query result

(column 4, lines 58-61). This query is executable against portions of the application data (data that client wants replicated).

38. Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bracho, in view of Cheng, to show a query executable against portions of the application data. Bracho already teaches hubs transmitting advertisements to all potential subscribers who have subscribed to events of a particular type, whose content matches the subscriber's subscription (column 5, lines 44-47). A suggestion exists that the hubs may comprise a query executable against portions of the application data (subscriber's subscription) in order to match advertisements to potential subscribers.

### Conclusion

39. Applicant's amendment filed April 28, 2008 necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

40. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

41. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Chrystina Zelaskiewicz** whose telephone number is **571.270.3940**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Andrew Fischer** can be reached at **571.272.6779**.

Art Unit: 3621

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

/Chrystina Zelaskiewicz/  
Examiner, Art Unit 3621  
June 4, 2008

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621